

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
February 11, 2010

The Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on February 11, 2010 at 9:00 a.m.

Agricultural Pool Members Present

Bob Feenstra, Chair	Dairy
Nathan deBoom	Dairy
John Huitsing	Dairy
Gene Koopman	Milk Producers Counsel
Rob Vanden Heuvel	Milk Producers Counsel
Jeff Pierson	Crops
Glen Durrington	Crops
Jennifer Novak	State of California, Dept. of Justice, CIM
Pete Hall	State of California, CIM
Nathan Mackamul	State of California, CIW

Watermaster Staff Present

Ken Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Danielle Maurizio	Senior Engineer
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.
Joe LeClaire	Wildermuth Environmental Inc.

Others Present

Steven Lee	Reid & Hellyer
Gil Aldaco	City of Chino
Dave Crosley	City of Chino
Martha Davis	Inland Empire Utilities Agency
Eunice Ulloa	Chino Basin Conservation District
Rick Rees	State of California, Dept. of Justice, CIM
Ken Jeske	City of Ontario

Chair Feenstra called the Agricultural Pool meeting to order at 9:12 a.m.

AGENDA - ADDITIONS/REORDER

Chair Feenstra asked for the closed session which is first on the agenda to be moved to the end of the agenda.

Motion by Koopman, second by Pierson, and by unanimous vote

Moved to approve moving the closed session to the end of the agenda, as presented

CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to the Agricultural Pool Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Annual Agricultural Pool Meeting held January 14, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of December 2009
2. Watermaster Visa Check Detail for the month of December 2009
3. Combining Schedule for the Period July 1, 2009 through December 31, 2009
4. Treasurer's Report of Financial Affairs for the Period December 1, 2009 through December 31, 2009
5. Budget vs. Actual July through December 2009

C. CHINO BASIN WATERMASTER ANNUAL AUDIT

Chino Basin Watermaster Annual Audit Performed by Mayer Hoffman McCann P.C.

A discussion regarding the elections which took place at the January 14, 2010, meeting ensued.

Motion by Koopman, second by Pierson, and by unanimous vote

Moved to approve Consent Calendar item A through C, as presented

II. BUSINESS ITEM**A. CHINO BASIN WATERMASTER DRAFT POLICY MANUAL**

Mr. Manning stated this item has been mentioned at various other meetings and has been worked on by Watermaster staff for several months; it is still very much a rough draft. Mr. Manning stated the manual is an attempt to consolidate as many items that are contained within the Judgment, Peace Agreement, Peace II, Rules & Regulations, and adopted policies. This consolidated document will allow Watermaster to operate more efficiently. Mr. Manning noted most of the items in the manual are court approved and to change any portion of those court approved documents would mean taking the documents back through the court process. The goal is to have as much as possible in one document for staff, counsel, Watermaster parties, etc. that could be referenced easily. Mr. Manning stated staff is seeking consideration of format and for sections one and two. Mr. Manning noted the Appropriate Pool and the Non-Agricultural Pool at their recent meeting only approved the format and asked for more time to review the contents. Ms. Rojo gave the Chino Basin Watermaster Policy Manual Overview presentation. Ms. Rojo stated the purpose of the Policy Manual is to provide clarity to staff and others about the purpose of the organization, governance structure and policies, CEO and staff policies, and financial policies. Ms. Rojo gave an overview of the various sections in the manual and noted the manual has been reviewed by several members of the three pools. A workshop was held on January 25, 2010 where it was reviewed in great detail. Ms. Rojo stated because of its volume of information it was asked to be brought for action in pieces. Ms. Rojo acknowledged adding, deleting, or updating sections in this manual with the format it has been prepared in, will be fairly easy. Ms. Rojo stated there have already been discussions about adding a section regarding water purchases, transfers, land use conversions, and water assignments. A discussion regarding page 68, section 2.5.5 regarding open meeting laws ensued. Mr. Manning noted that particular wording was taken directly from the Rules & Regulations. A discussion regarding page 71, section 2.6.7 regarding voting power and volume vote ensued. A discussion regarding page 63, section 2.2.8 regarding closed sessions, in particular the word "shall", and the Brown Act ensued. Mr. Lee added comment and read further down the paragraph for section 2.2.8 and noted it offered the pools' more discretion than it does the Watermaster Board. After discussions, it was affirmed the members of the Agricultural Pool felt they needed more time to read, review, and comment on the draft policy manual and possibly have a separate workshop or closed session regarding the manual and that it be approved today only in format. Mr. Pierson inquired about the California Special Districts Association Policy and inquired if he could obtain a copy or a website address of that association. Mr. Manning stated that would be done.

Chair Feenstra offered comment regarding a recent Watermaster Board meeting and actions that were taken at that meeting. Mr. Manning stated the Watermaster Board has the ability to invite people into closed session that they feel could help them in the discussion of the item or items that are being discussed in closed session, and that is what the Board members chose to do. An action was taken to have the record clear for the parties present that were not members of the Board who were there by invitation.

Motion by Koopman, second by Pierson, and by unanimous vote

Moved to approve the Chino Basin Watermaster Draft Policy Manual for format only, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Santa Ana Critical Habitat Comment Letter

Counsel Fife stated the Chino Basin Watermaster Santa Ana Critical Habitat comment letter that was submitted on February 8, 2010 is available on the back table. An extension of time to submit the comment letter was requested. However, the request was denied. Counsel Fife stated Watermaster has requested a public hearing be held on the critical habitat designation. The comment letter reflected off several other letters written by Western Municipal Water District, Riverside, SAWPA, and Inland Empire Utilities Agency; meaning Watermaster's comments are all consistent with theirs.

2. Chino Airport

Counsel Fife stated Watermaster sent a Notice of Intent to Sue to the San Bernardino County. Negotiations have been taking place for several months with the county in trying to get them to participate in the cleanup efforts and to participate with the Chino Desalter Authority (CDA). Counsel Fife noted progress has been made with the county. The Notice of Intent to Sue was sent in a cooperative manner in complying with their instructions and is part of the negotiation process. A discussion regarding this matter ensued. Counsel Fife noted there is a similar process going on with regard to the Ontario International Airport (OIA) plume and noted those discussions are at a different stage in their negotiation process. It was noted Joe LeClaire will be giving a presentation today on the two plumes. Mr. Manning stated it is our hope that the end result is the same, in that, a negotiated settlement with both the potential responsible parties (PRP's) within the OIA plume and the Chino Airport plume solution will be made with the CDA. Mr. Manning stated by taking the actions that are being taken right now, it will create an environment where negotiations would take place where both entities are going to be satisfied with the end result. Chair Feenstra offered comment regarding potable water being offered to some residents in the OIA plume path in Ontario. A discussion regarding the Ninety Day Notice of Citizen Suit under the Resources Conservation and Recovery Act letter ensued. Counsel Fife stated that now that the Agricultural Pool has made staff and counsel aware of its concerns, as this matter moves forward there will be more information provided. Ms. Novak offered comment regarding what a Notice of Intent is, and she noted she has personally heard reports for months from legal counsel about Watermaster getting more involved mainly because the Regional Board does not have the resources. A discussion regarding the Regional Board, contamination issues, and the recent Brownstein, Hyatt, Farber & Schreck letter to the Chino Airport ensued. Mr. Jeske offered comment on the alternative water program.

B. FINANCIAL REPORT

1. Financial Update

Ms. Rojo stated Watermaster is currently starting the budget process. Mr. Koopman inquired about Watermaster staff checking on percentage rates and Ms. Rojo stated she had a meeting with a representative from Citizens Bank and they will be getting back to her shortly.

C. ENGINEERING REPORT1. Recharge Master Plan Progress Report

Mr. Wildermuth stated Wildermuth Environmental is in the wrap-up stage of pulling together the draft report for the Recharge Master Plan. The plan is to have a draft report out for review in the first part of April to coincide with workshops in April and May to evaluate the draft report, to get comments, and make adjustments prior to its submittal to the court by the end of June of this year. There will be one more working workshop after the Watermaster Board meeting in March to discuss the costs of some of the new recharge facilities.

2. Plumes and Other Contaminant Issues in the Chino Basin

Mr. LeClaire stated he was asked by members of the Agricultural Pool and Watermaster staff to give an update on the technical aspect of the two airport plumes. Mr. LeClaire gave the Chino Airport presentation which included a summary of investigation/data, a contamination timeline, the 2003 investigation done by Tetra Tech, the 2005 onsite investigation, 2007 and 2008 offsite characterization, proposed current work, and Watermaster/CDA Desalter well fields information. Several maps were also reviewed in detail. A discussion regarding the Chino Airport plume ensued. Mr. LeClaire gave the Ontario International Airport presentation, which included a summary of investigations/data, site background, and the path forward. Several maps were reviewed in detail. A discussion regarding the OIA plume ensued. Mr. LeClaire also gave a brief update on Hexavalent Chromium. A lengthy discussion regarding contamination, wells, the usage of water, and testing ensued.

Added Comment:

Chair Feenstra inquired about the Non-Agricultural Pool letters from Hogan & Hartson. Counsel Fife stated the Non-Agricultural Pool has suggested they are going to file a Paragraph 31 Motion to review Watermaster's issuance of the Notice of Intent to Purchase the Non-Agricultural Pool water. This is the water that was the subject of the auction and the matter which was discussed for over a year. Counsel Fife stated this is a tenuous topic to discuss due to Hogan & Hartson, the law firm that the Non-Agricultural Pool has hired, being extremely tedious in their requests. Counsel Fife acknowledged he represents the Watermaster Board and the Board has not taken any official position on this matter. Counsel Fife noted the Watermaster Board is going to have a special meeting this afternoon via a conference call to approve the formation of a litigation ad hoc committee which would provide legal counsel with a committee to interface with to develop a Board position. Counsel Fife stated his personal view of the situation is that it is a case of seller's remorse and that no party ever doubted the Appropriative Pool intended to purchase this water and that this matter has been exhaustively discussed for the past year at the Pools, Advisory Committee, and Watermaster Board meetings. The five letters that have been received in the past week are to request an assortment of volumes of information. Counsel Fife stated Hogan & Hartson have demanded to have access to all of Watermaster's computers, backup copies of all of Watermaster's computers, and access to both Scott Slater and my personal laptops. However, none of the five letters say anything about the Notice of Intent to Purchase, and they are not explaining how any of the requested information is related to the actual inquiry if the Notice of Intent to Purchase was appropriately noticed to the parties. Counsel Fife stated that in all the significant discussions that have taken place and with the appearance of the Hogan & Hartson's attorney at the last Appropriative Pool and Watermaster Board meeting, he has not heard what their actual legal claim is and/or why they believe the Notice of Intent to Purchase was not properly issued. Counsel Fife recognized that in everything that has been said, that is the one thing they are not saying. Counsel Fife stated in his personal opinion, he does not think there was anything wrong with the manner the notice was presented, as it was noticed by Watermaster's standard practice. Counsel Fife noted if they could find something wrong with it, they would have said something by now. Counsel Fife reiterated this is his personal view and again the Watermaster Board has not taken a position. A discussion regarding Peace II ensued. Counsel Fife pointed out the timing of when this matter came up which coincided with the release of the newly recommended Metropolitan Water District rate increases which was not known at the time the deal was made by the

Non-Agricultural Pool two years ago. A discussion regarding payment for the water ensued. Counsel Fife stated a check for the first payment under Purchase and Sale Agreement was to be issued by January 18, 2010, and on January 14, 2010, the first check was issued to each member of the Non-Agricultural Pool; however, only one of the parties has cashed the check. Chair Feenstra stated the Non-Agricultural Pool announced at the last Watermaster Board meeting that they no longer have water for sale. Mr. Manning explained that each member of the Non-Agricultural Pool is to individually make the Watermaster aware of any water that they have for sale to the Watermaster and no water was made available to Watermaster as of December 31, 2009. Mr. Manning stated that notification was noticed to the parties in the January, 2010, meeting packets. A discussion regarding the sale of water ensued.

D. CEO/STAFF REPORT

1. Legislative Update

No comment was made regarding this item.

2. Recharge Update

Mr. Manning stated that the formal recharge report is not available. However, staff is anticipating very good numbers due to the storms in January.

3. GAMA Report Summary

Mr. Manning stated this item was discussed about a year ago when the USGS was doing some work in the upper Santa Ana Watershed and the report from that work is now available online. After reading the lengthy report, Mr. Manning wrote a summary and noted that summary is available on the back table.

4. Dr. David Sunding

Mr. Manning stated the Appropriative Pool is in the process of discussing hiring Dr. David Sunding to some analytical work on the Non-Agricultural Pool water in terms of how they are going to handle given the fact the auction has been postponed. The Appropriative Pool wants some financial data to backup their decisions. A discussion about Dr. Sunding ensued.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. POOL MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. FUTURE MEETINGS

February 11, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
February 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
February 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
February 25, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

The regular open meeting was convened to hold its confidential session at 11:05 a.m.

The Agricultural Pool closed session was convened at 11:15 a.m.

The Agricultural Pool meeting was dismissed by Chair Feenstra at 12:20 p.m.

There were no reported actions.

Minutes Agricultural Pool Meeting

February 11, 2010

Secretary: _____

Minutes Approved: March 11, 2010